



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93206; File No. SR-FINRA-2021-025]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish an Administration and Delivery Fee for the Municipal Advisor Principal Examination

September 30, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 27, 2021, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as “establishing or changing a due, fee or other charge” under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Section 4(c) of Schedule A to the FINRA By-Laws to establish an administration and delivery fee for the new Municipal Advisor Principal Examination (“Series 54 examination”).

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

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Section 4 – Fees⁵

(a) through (b) No Change.

(c) The following fees shall be assessed to each individual who takes an examination as described below. These fees are in addition to the registration fee described in paragraph (b) and any other fees that the owner of an examination that FINRA administers may assess.

Examination Number	Examination Name	Examination Fee
N/A	Securities Industry Essentials (SIE) Examination	\$60
Series 4	Registered Options Principal Examination	\$105
Series 6	Investment Company Products and Variable Contracts Representative Examination	\$40
Series 7	General Securities Representative Examination	\$245
Series 9	General Securities Sales Supervisor Examination — Options Module	\$80
Series 10	General Securities Sales Supervisor Examination — General Module	\$125
Series 14	Compliance Official Examination	\$350
Series 16	Supervisory Analyst Examination	\$240
Series 22	Direct Participation Programs Representative Examination	\$40
Series 23	General Securities Principal Examination — Sales Supervisor Module	\$100
Series 24	General Securities Principal Examination	\$120
Series 26	Investment Company Products and Variable Contracts Principal Examination	\$100

⁵ Amendments to some Examination Fees in Section 4 of Schedule A to the FINRA By-Laws were approved in SR-FINRA-2020-032 and become effective on January 1, 2022. See Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-032).

Series 27	Financial and Operations Principal Examination	\$120
Series 28	Introducing Broker-Dealer Financial and Operations Principal Examination	\$100
Series 39	Direct Participation Programs Principal Examination	\$95
Series 50	Municipal Advisor Representative Examination	\$115
Series 51	Municipal Fund Securities Limited Principal Examination	\$105
Series 52	Municipal Securities Representative Examination	\$110
Series 53	Municipal Securities Principal Examination	\$115
<u>Series 54</u>	<u>Municipal Advisor Principal Examination</u>	<u>\$115</u>
Series 57	Securities Trader Examination	\$60
Series 79	Investment Banking Representative Examination	\$245
Series 82	Private Securities Offering Representative Examination	\$40
Series 86	Research Analyst Examination — Analysis	\$185
Series 87	Research Analyst Examination — Regulatory	\$130
Series 99	Operations Professional Examination	\$40

(1) through (4) No Change.

(d) through (i) No Change.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV

below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing amendments to Schedule A to the FINRA By-Laws to establish an administration and delivery fee for the Series 54 examination. The Municipal Securities Rulemaking Board (“MSRB”) has established qualification classifications for municipal advisor professionals. The Commission approved amendments to MSRB Rule G–3 that established two new registration classifications for municipal advisors:⁶ (1) Municipal advisor representatives (i.e., those individuals who engage in municipal advisory activities); and (2) municipal advisor principals (i.e., those individuals who engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor or its associated persons).⁷ Both municipal advisor representatives and municipal advisor principals are required to pass the Municipal Advisor Representative Examination (“Series 50 examination”) to be qualified in accordance with MSRB rules.⁸

⁶ The term “municipal advisor” is defined to mean a person that: (i) Provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues; or (ii) undertakes a solicitation of a municipal entity. The definition includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors that are engaged in municipal advisory activities, unless they are statutorily excluded. The definition does not include a municipal entity or an employee of a municipal entity. See 15 U.S.C. 78o-4(e)(4).

⁷ See Securities Exchange Act Release No. 74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (Notice of Filing of Amendment Nos. 1 & 2 and Order Granting Accelerated Approval of File No. SR-MSRB-2014-08).

⁸ See Securities Exchange Act Release No. 75865 (September 9, 2015), 80 FR 55407 (September 15, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2015-031).

MSRB Rule G-3(e)(ii)(A) was amended to establish additional qualification requirements for municipal advisor principals, including the requirement to pass the Series 54 examination.⁹ Under the amended rule, municipal advisor principals are required to pass both the Series 50 examination and the Series 54 examination prior to becoming qualified as a municipal advisor principal.¹⁰

To provide persons who function as municipal advisor principals with sufficient time to satisfy the requirement to pass the new Series 54 examination, the MSRB initially included a one-year grace period from the effective date of the Series 54 examination, during which a person functioning as a municipal advisor principal would be permitted to continue to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons so long as such person is qualified with the Series 50 examination.¹¹

The date by which individuals are required to become qualified with the Series 54 examination has been extended three times due to impacts related to the pandemic. In April 2020, the MSRB extended the date by which individuals were required to become qualified with the Series 54 examination from November 12, 2020 to March 31, 2021.¹² In December 2020, the MSRB further extended the time period from March 31, 2021 to November 12, 2021.¹³ In September 2021, the MSRB further extended the time period from November 12, 2021 to

⁹ See Securities Exchange Act Release No. 84630 (November 20, 2018), 83 FR 60927 (November 27, 2018) (Order Approving File No. SR-MSRB-2018-07).

¹⁰ Supra note 9.

¹¹ Supra note 9.

¹² See Securities Exchange Act Release No. 88694 (April 20, 2020), 85 FR 23088 (April 24, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-MSRB-2020-01).

¹³ See Securities Exchange Act Release No. 90621 (December 9, 2020), 85 FR 81254 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-MSRB-2020-09).

November 30, 2021.¹⁴

FINRA develops, maintains, and delivers all FINRA qualification examinations for individuals who are registered or seeking registration with FINRA. FINRA also administers and delivers examinations developed by the MSRB and other self-regulatory organizations.¹⁵ The SEC has designated FINRA to administer and deliver the Series 54 examination for municipal advisors.¹⁶

FINRA currently administers examinations electronically through the PROCTOR[®] system¹⁷ at testing centers operated by vendors under contract with FINRA.¹⁸ For qualification examinations sponsored by a FINRA client and administered by FINRA, FINRA charges an administration and delivery fee that represents either a portion of or the entire examination fee. Consistent with this practice, FINRA charges an administration and delivery fee of \$115 for the Series 50 examination.¹⁹

¹⁴ See Securities Exchange Act Release No. 92938 (September 10, 2020), 86 FR 51696 (September 16, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR-MSRB-2021-05).

¹⁵ In this regard, the Exchange Act provides that a registered securities association shall administer required qualification examinations for municipal securities brokers and municipal securities dealers who are members of the association. See 15 U.S.C. 78o-4(c)(7)(A)(i).

¹⁶ See Securities Exchange Act Release No. 75714 (August 17, 2015) 80 FR 50883 (August 21, 2015) (Designation of the Financial Industry Regulatory Authority to Administer Professional Qualification Tests for Associated Persons of Registered Municipal Advisors). Section 15B(c)(7)(A)(iii) of the Exchange Act requires that the SEC or its designee administer qualification examinations for municipal advisors. The SEC previously designated FINRA to examine FINRA members' activities as registered municipal advisors and evaluate compliance by such members with federal securities laws, SEC rules and regulations, and MSRB rules applicable to municipal advisors. See Securities Exchange Act Release No. 70462 (September 20, 2013), 78 FR 67468 (November 12, 2013) (S7-45-10) (Registration of Municipal Advisors).

¹⁷ PROCTOR is a computer system that is specifically designed for the administration and delivery of computer-based testing and training.

¹⁸ The MSRB has temporarily allowed the Series 54 examination to be taken online as an interim accommodation for individuals who need to become appropriately qualified as a municipal advisor principal before the compliance date. See *supra* note 14.

¹⁹ The administration and delivery fee represents a portion of the entire examination fee when a FINRA client has established an additional fee for an examination that it sponsors. The fee to take the Series 50 examination is \$265. Of this amount, \$115 is the

The proposed administration and delivery fee for the Series 54 exam is also \$115.²⁰ The proposed administration and delivery fee will offset FINRA's costs associated with the administration and delivery of the Series 54 examination and, as discussed below, contribute to supporting FINRA's other operations.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,²¹ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

Reasonableness of the Proposed Fee

FINRA believes that the proposed administration and delivery fee for the Series 54 examination is reasonable. In establishing an administration and delivery fee of \$115 for the Series 54 examination, FINRA applied the same criteria as it does for establishing the fees for other examinations with similar characteristics related to test length and volume. In particular, the Series 54 examination fee is consistent with the fee charged for the Series 50 examination, which has the same number of questions (and thus requires the same testing time).

The proposed administration and delivery fee will be used to cover FINRA's costs associated with the administration and delivery of the Series 54 examination, including the fees

FINRA administration and delivery fee, and \$150 is the development fee determined by the FINRA client, the MSRB. See MSRB Rule A-16. See also supra note 8.

²⁰ The fee to take the Series 54 examination is \$265. Of this amount, \$115 is the FINRA administration and delivery fee, and \$150 is the development fee determined by the FINRA client, the MSRB. See MSRB Rule A-16. See also Securities Exchange Act Release No. 85135 (February 14, 2019), 84 FR 5513, 5514 n.15 (February 21, 2019) (Notice of Filing and Immediate Effectiveness of File No. SR-MSRB-2019-02).

²¹ 15 U.S.C. 78o-3(b)(5).

that vendors charge FINRA for delivering qualification examinations through their test delivery networks and PROCTOR system maintenance and enhancement expenses. The proposed fee also will contribute to supporting FINRA's other operations. As FINRA has explained previously, it is not feasible to associate a direct affiliated revenue stream for each of its programs and thus numerous operations and services must be funded by other revenue sources, which include both general regulatory assessments and use-based fees.²²

The Proposed Fee is Equitable and Not Unfairly Discriminatory

FINRA believes that the proposed administration and delivery fee for the Series 54 examination is equitable and not unfairly discriminatory. The proposed fee is a use-based fee and FINRA will charge the fee each time a municipal advisor representative accesses the content. Thus, the exam for municipal advisor principals will be available on the same terms to every municipal advisor representative.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that the establishment of the administration and delivery fee for the Series 54 examination will have a limited economic impact on the industry.

MSRB rules require every municipal advisor to have at least one municipal advisor principal.²³ There are approximately 500 registered municipal advisors.²⁴ The administration and delivery fees may be paid by the individuals taking the examination or their associated firms.

FINRA administers this examination as a service provider to the MSRB as designated by the SEC. In providing this service, FINRA is not exercising regulatory discretion and therefore

²² See supra note 5.

²³ MSRB Rule G-3(e)(iii).

²⁴ See MSRB-Registered Municipal Advisor Firms with Series-50 Qualified Representatives (Sept. 20, 2021, 2:06 PM), <https://msrb.org/MARegistrants>.

is not itself imposing burdens on those individuals who may choose to sit for the examination. FINRA does exercise discretion in establishing the administration and delivery fee. Regardless of whether individuals pay the fee or some part of the fee is paid by firms, FINRA believes that the proposal is likely to have minimal effects on firms' costs or liquidity. The proposal will therefore have at most minimal competitive effects.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁵ and paragraph (f)(2) of Rule 19b-4 thereunder.²⁶ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2021-025 on the subject line.

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(2).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2021-025. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2021-025 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier,

Assistant Secretary.

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²⁷ 17 CFR 200.30-3(a)(12).